SUPREME COURT OF THE UNITED STATES.

No. 2.—October Term, 1919.

The Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company, Plaintiff in Error, *vs.* Alvin J. Fink.	In Error to the Court of Appeals of Montgomery County, Ohio.

[November 10, 1919.]

Mr. Justice Day delivered the opinion of the Court.

An action was brought by the Railway Company before a Justice of the Peace in Montgomery County, Ohio, to recover fifteen dollars, the freight charges upon a shipment in interstate commerce from Los Angeles, California, to Dayton, Ohio. The defendant, Fink, prevailed in the Magistrate's court, the judgment was reversed in the Court of Common Pleas, the case was taken to the Court of Appeals of Montgomery County where the judgment of the Court of Common Pleas was reversed and that of the Magistrate affirmed. 19 Ohio Circuit Court, New Series, 103. The Supreme Court of Ohio denied a motion to require the record to be certified to it by the Court of Appeals, and the case is here upon writ of error to the Court of Appeals of Montgomery County, Ohio.

The facts are that the railroad company on September 13, 1910, delivered to Fink, the consignee, two boxes of Indian relics shipped to him at Dayton, Ohio, from Los Angeles, California, the way-bill specifying charges in the sum of fifteen dollars, which sum Fink paid upon receipt of the goods. The tariff rates filed with the Interstate Commerce Commission so classified this merchandise that the transportation charges should have been thirty dollars instead of fifteen. It is for the difference that this action is prosecuted.

It appears that Fink had dealt with the consignor at Los Angeles in suchwise that some old coins, belonging to Fink, were to be traded for a collection of Indian relics. Fink shipped the coins to

the postmaster at Los Angeles to be held for his protection. At the time the action was brought, about one year after the shipment, the postmaster had released the coins, and Fink had sold some of the relics. Fink testified that he had no knowledge of the freight classification and rates, and simply paid the freight bill as it was presented to him. No agreement appears to have been made with the consignor that Fink should pay the freight charges.

Examination shows some conflict of authority as to the liability at common law of the consignee to pay freight charges under the circumstances here shown. The weight of authority seems to be that the consignee is *prima facie* liable for the payment of the freight charges when he accepts the goods from the carrier. (See the cases collected and discussed in Hutchinson on Carriers, 3 Ed. Sec. 1559.) However this may be, in our view the question must be decided upon consideration of the applicable provisions of the statutes of the United States regulating interstate commerce. The purpose of the Act to Regulate Interstate Commerce, frequently declared in the decisions of this court, was to provide one rate for all shipments of like character, and to make the only legal charge for the transportation of goods in interstate commerce the rate duly filed with the Commission. In this way discrimination is avoided, and all receive like treatment, which it is the main purpose of the Act to secure.

Section 6 of the Act to Regulate Commerce, which was in force at the time of this shipment, provides: "Nor shall any carrier charge or demand or collect or receive a greater or less or different compensation for such transportation of passengers or property, or for any service in connection therewith, between the points named in such tariffs than the rates, fares, and charges which are specified in the tariff filed and in effect at the time; nor shall any carrier refund or remit in any manner or by any device any portion of the rates, fares, and charges so specified, nor extend to any shipper or person any privileges or facilities in the transportation of passengers or property, except as are specified in such tariffs." It was, therefore, unlawful for the carrier upon delivering the merchandise consigned to Fink to depart from the tariff rates filed. The statute made it unlawful for the carrier to receive compensation less than the sum fixed by the tariff rates duly filed. Fink, as well as the carrier, must be presumed to know the law, and to have understood that the rate charged could law-

fully be only the one fixed by the tariff. When the carrier turned over the goods to Fink upon a mistaken understanding of the rate legally chargeable, both it and the consignee undoubtedly acted upon the belief that the charges collected were those authorized by law. Under such circumstances consistently with the provisions of the Interstate Commerce Act the consignee was only entitled to the merchandise when he paid for the transportation thereof the amount specified as required by the statute. For the legal charges the carrier had a lien upon the goods, and this lien could be discharged and the consignee become entitled to the goods only upon tender or payment of this rate. *Texas & Pacific Railway Company* v. *Mugg*, 202 U. S. 242. The transaction, in the light of the Act, amounted to an assumption on the part of Fink to pay the only legal rate the carrier had the right to charge or the consignee the right to pay. This may be in the present as well as some other cases a hardship upon the consignee due to the fact that he paid all that was demanded when the freight was delivered; but instances of individual hardship cannot change the policy which Congress has embodied in the statute in order to secure uniformity in charges for transportation. *Louisville & Nashville Railroad Co.* v. *Maxwell*, 237 U. S. 94. In that case the rule herein stated was enforced as against a passenger who had purchased a ticket from an agent of the company at less than the published rate. The opinion in that case reviewed the previous decisions of this court, from which we find no occasion to depart.

It is alleged that a different rule should be applied in this case because Fink by virtue of his agreement with the consignor did not become the owner of the goods until after the same had been delivered to him. There is no proof that such agreement was known to the carrier, nor could that fact lessen the obligation of the consignee to pay the legal tariff rate when he accepted the goods. *Pennsylvania Railroad Co.* v. *Titus*, 216 N. Y. 17. Nor can the defendant in error successfully invoke the principle of estoppel against the right to collect the legal rate. Estoppel could not become the means of successfully avoiding the requirement of the Act as to equal rates, in violation of the provisions of the statute. *New York, New Haven & Hartford R. R. Co.* v. *York & Whitney Co.*, 215 Mass. 36, 40.

In our view the Court of Common Pleas correctly held Fink liable for the payment of the remaining part of the legal rate upon the merchandise received by him. The judgment of the Court of Appeals of Montgomery County, Ohio, is reversed, and the cause remanded to that court for further proceedings not inconsistent with this opinion.

Reversed.

A true copy.

Test:

Clerk Supreme Court, U. S.